



State of New Jersey

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CHRISTINE TODD WHITMAN
Governor

DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF PHYSICAL THERAPY
124 HALSEY STREET, 6TH FLOOR, NEWARK NJ

JOHN J. FARMER, JR.
Attorney General
MARK S. HERR
Director

June 9, 2000

Mailing Address:

P.O. Box 45014
Newark, NJ 07101
(973) 504-6455

By Certified and Regular Mail

Mr. Robert Incitti, P.T.
Physical Therapy of Red Bank
65 Mechanic Street
Red Bank, New Jersey 07701

Re: Aiding and Abetting of unlicensed practice of Physical Therapy
Offer of Settlement In Lieu of Filing a Formal Disciplinary Complaint

Dear Mr. Robert Incitti:

This letter is to advise you that the New Jersey State Board of Physical Therapy (the "Board") has had an opportunity to review information concerning the global practice of physical therapy performed at the offices of the Physical Therapy of Red Bank. Specifically, the information reviewed included:

1. Transcript of Robert Incitti, P.T. dated April 11, 2000
2. Patient records of Louise Stanley

Upon review of all available information, the Board has preliminarily found that probable cause exists to support a finding that you violated N.J.S.A. 45: 1-21(e), N.J.A.C. 13: 39A-3.8(b)7, 13:39A-2.4(b)5ii and 13:39A-3.1(b)7. More specifically, the Board's review of your testimony on April 11, 2000 reflected that on several occasions you have permitted an aide to begin ultrasound treatment on patients when you were not present. You also admitted that in the course of your practice you have permitted aides to apply heat or cold before you evaluated the patients. These actions are in violation of N.J.A.C. 13:39A-3.8(b)7 which prohibits the aiding and abetting of unlicensed practice of physical therapy and N.J.A.C. 13:39A-2.4(b)5ii which prohibits a physical therapist to permit an unlicensed person to administer ultrasound. An aide must not be permitted to initiate treatment as an aide lacks the education and training to discern whether or not the treatment to be rendered should be adjusted or remain the same. To do so is to allow an unlicensed individual to engage in the practice of physical therapy. Furthermore, the activity also constitutes professional misconduct pursuant to N.J.S.A. 45:1-21(e).

During the course of your testimony, the Board reviewed the patient records of Louise Stanley. Your testimony disclosed that you take handwritten notes during the physical therapy session and have those notes transcribed. The handwritten notes and the transcribed notes are

both kept in the patient record. However, your testimony was that while you review the transcribed notes you do not sign them. This failure to provide a signature or initials on the transcribed notes is a violation of N.J.A.C 13:39A-3.1(b)7.

At this juncture, the Board has preliminarily concluded that the above violations are sufficient to warrant the initiation of formal disciplinary proceedings against you. Notwithstanding that decision, however, the Board has determined that it will first offer you an opportunity to settle this matter, and thereby avoid the initiation of formal disciplinary proceedings, should you consent to:

1. cease and desist from allowing the aides in your employ from administering ultrasound or therapeutic modalities.
2. Include your signature on all notes, handwritten and transcribed.
3. the issuance of a formal reprimand;
4. pay a penalty in the amount of \$ 4000 which constitutes a penalty of \$2500 for the aiding and abetting of unlicensed practice of physical therapy and \$1500 for the patient records violation (to be paid immediately upon your signing of the acknowledgment at the bottom of this letter);

If you are willing to settle this matter on the offered settlement terms, you may do so by signing the acknowledgment at the bottom of this letter, and returning it to the Board office. Upon your signature, this letter will be a matter of public record.

In the event you are unwilling to settle this matter on the offered terms, it will be referred to the Attorney General's office for the initiation of appropriate enforcement action. In such event, you will be afforded an opportunity to defend against the alleged violations. If an evidentiary hearing is deemed warranted, the Board will either conduct that hearing at a date and time to be scheduled or refer the matter to the Office of Administrative Law. You are advised, however, that in the event formal charges are filed, the Board may assess civil penalties in an amount greater than those herein offered in settlement should any charges against you be sustained. Additionally, the Board may, if the facts are found to so warrant, enter an order requiring you to reimburse certain monies and/or requiring you to pay the additional costs incurred by the Board. Should you have any questions concerning this letter or the settlement offer herein, I suggest that you contact Deputy Attorney General Carmen A. Rodriguez who may be reached at (973) 693-5056.

If you elect to settle this matter now you should sign the acknowledgment at the bottom of this letter and return it to the Board within fifteen (15) days following your receipt of this letter. In the event that the Board receives no response from you within fifteen (15) days, the Board's settlement offer will be withdrawn, and the matter will be referred to the Attorney General's Office for the initiation of appropriate enforcement proceedings.

NEW JERSEY STATE BOARD
PHYSICAL THERAPY

By: *Susan Gartland*
Susan Gartland
Executive Director

ACKNOWLEDGMENT: I, Robert Incitti, P.T., hereby acknowledge that I have read and reviewed the settlement proposal set forth in the above letter. I acknowledge the conduct which has been charged. I am aware that, by signing this acknowledgment, I am waiving any rights I may have to defend myself against any charges of wrongdoing at an administrative hearing. I am also aware that the action taken against me by the Board herein is a matter of public record, and that this letter is a public document. I hereby agree to pay a penalty in the amount of \$4000 (to be paid upon signing of this acknowledgment), and to comply with all other requirements set forth in the settlement letter.

Robert Incitti, P.T.
Robert Incitti, P.T.

Dated: *June 15, 2000*

cc: Andrew M. Zapcic, Esquire
Carmen A. Rodriguez, Deputy Attorney General